Gov. 00-1515
"BOSTON PUBLIC LIBRARY"
GOVDOC
BRA
3075

AN ANALYSIS OF LAWS AND PROCEDURES RELATING TO THE LICENSING OF BOARDING HOUSES, DORMITORIES, LODGING HOUSES AND ROOMING HOUSES WITH A STUDY OF SELECTED PROPERTIES IN THE BACK BAY

PART I

Property of
BOSTON REDEVELOPMENT AUTHORITY
Library

There is no real distinction in State law between a lodging house, a boarding house, a rooming house, and a dormitory. Chapter 145 Section 2 of the Massachusetts General Laws uses the same definition for lodging house and boarding house:

> " 'Lodging house' or 'boarding house,' any house or building or part thereof, in which six or more persons are harbored, received or lodged for hire, or any building or part thereof, which is used as a sleeping place or lodging for six or more persons not members of the family residing therein."

Chapter 145 Section 2 makes no mention of dormitory or rooming house. Chapter 140 Section 22 of the Massachusetts General Laws states:

> "A 'lodging house' as used in sections twenty-two to thirty-one, inclusive, shall mean a house where lodgings are let to five or more persons not within the second degree of kindred to the person conducting it, and shall not include dormitories of charitable, educational or philanthropic institutions."

Chapter 140 Section 22 excluded dormitories of charitable, educational and philanthropic institutions from the lodging house definition, but does not stipulate what constitutes a dormitory. However, Chapter 171 of the Acts of 1965 amends Chapter 140 Section 22 by redefining lodging house so that the definition includes dormitories of educational institutions, but excludes dormitories of charitable and philanthropic institutions. Chapter 171 of the Acts of 1965, March 18, 1965, defines lodging house:

> " 'Lodging house,' as used in sections twenty-two to thirty-one, inclusive, shall mean a house where lodgings are let to five or more persons not within the second degree of kindred to the person conducting it, and shall include fraternity houses and dormitories of education institutions, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under section seventy-one of chapter one hundred and eleven or rest homes so licensed."

There is no consensus among the Agencies of the City of Boston (the Building Department, Housing Inspection Department and the Zoning Department) directly involved in the licensing of lodging houses, boarding houses, rooming houses and dormitories as to what each of these is.

The Building Department works under the purview of Chapter 143 of the Massachusetts General Law, and Chapter 479 of the Acts of 1938, as

[circa 1966]

amended (Building Code of the City of Boston), and Regulations for the Uniform Enforcement of G. L. Chapter 143 Sections 15 to 52 as, amended, which defines:

> "Boarding House: a building or portion of a building containing eight or more rooms above the second story or in which ten (10) or more persons are accommodated, lodge, or reside above the second story, used for living purposes, wherein meals are served, which is not an apartment, and to which the proprietor or manager of the building or his employees have usual access for its care."

> "Dormitory: a building or part of a building which contains eight (8) or more rooms above the second story or in which ten (10) or more persons are accommodated, lodge, or reside above the second story, and used as sleeping quarters."

> "Lodging House: a building or a portion of a building containing eight (8) or more rooms above the second floor or in which ten (10) or more persons are accommodated, lodge, or reside above the second story, which is not an apartment and to which the proprietor or manager of the building or his employees have usual access for its care."

In these three definitions there is a distinction between boarding house, lodging house, and dormitory. In a boarding house, meals can be served. It is not clear whether or not meals may or may not be served in the lodging house or dormitory. The eight or more rooms above the second story in the boarding house are used for living purposes. In the dormitory, the eight or more rooms above the second story shall be used as sleeping quarters. The lodging house definition is much more general and contains no stipulation as to what the rooms are to be used for. There is no definition of rooming house in these Laws and Acts. A rooming house according to a member of the staff of the Building Department is a generic term which can be either a boarding or lodging house.

The Housing Inspection Department uses no definition for boarding house, rooming house, lodging house or dormitory.

The Boston Zoning Code's definition of dormitory, boarding house and lodging house are in the process of being amended. They are currently awaiting the Mayor's signature. The amended definitions appear below:

Section 2-1 Clause (6):

> "A 'boarding house,' any dwelling (other than a hotel, motel, apartment hotel, dormitory, fraternity or sorority house) in which board is provided to five or more persons who are not within the second degree of kinship."

The proposed Zoning Code amendment defines in Clause (11A A):

> "A 'dormitory,' any dwelling, (other than a fraternity or sorority house) occupied primarily as a place of temporary abode by persons attending educational institutions."

In Section 2-1 Clause (25) the proposed Boston Zoning Code amendment defines:

> "A 'lodging house,' any dwelling, (other than a boarding house, dormitory, fraternity, sorority house, hotel, motel, or apartment hotel) in which living space, without kitchen facilities, is let to five or more persons who are not within the second degree of kinship."

"Boarding house" in the proposed Zoning Code definition differs from the 143 Regulations definition in the following ways:

> The proposed Zoning Code is more specific by excluding motels, hotels, apartment-hotels, dormitories, fraternities, and sororities in which board is provided.
>
> The proposed Zoning Code does not stipulate the size of the building, while the 143 Regulations stipulate eight or more rooms above the second story.
>
> The proposed Zoning Code stipulates five or more persons, whereas the 143 Regulations stipulate ten or more persons.
>
> Under the proposed Zoning Code, board must be provided to five or more persons not within second degree of kindred. Meals are served under the 143 Regulation but no number of persons is specified.

"Dormitory" in the proposed Zoning Code definition differs from the 143 Regulations definition in the following ways:

> The proposed Zoning Code excludes fraternity and sorority houses.
>
> The proposed Zoning Code specifies no size, whereas the 143 Regulations specify eight or more rooms above the second story.
>
> The proposed Zoning Code sets no limits, whereas the 143 Regulations stipulate ten or more persons who reside above the second story.

The proposed Zoning Code says a dormitory is a place of temporary abode for persons attending educational institutions.

The 143 Regulations state that the rooms will be used as sleeping quarters, whereas the proposed Zoning Code makes no such stipulation.

"Lodging house" in the proposed Zoning Code definition differs from the 143 Regulations definition in the following ways:

The proposed Zoning Code specifically excludes boarding houses, dormitories, fraternity and sorority houses, motels, hotels, and apartment-hotels, whereas the 143 Regulations say a lodging house can be a building or any portion of a building.

The proposed Zoning Code specifically eliminates the use of kitchen facilities, while the 143 Regulations make no mention of such facilities.

The proposed Zoning Code stipulates five or more persons who are not within second degree of kinship, whereas the 143 Regulations stipulate ten or more persons residing above the second story.

Definitions of boarding house, dormitory, and lodging house included in the proposed Zoning Code revisions appear to be much more stringent than those in the 143 Regulations which seem to be almost interchangeable for the boarding house, the dormitory, and the lodging house.

There is no definition of the rooming house, which appears to be a generic term applied to boarding house, dormitory, and lodging house.

The Boston Licensing Board, which is a State agency, is empowered only to issue lodging house licenses according to Chapter 140 Section 22 of the Massachusetts General Laws, as amended by Chapter 171, Acts of 1965. Under Chapter 171, the Licensing Board can issue lodging house licenses to dormitories of educational institutions. It cannot issue lodging house licenses to dormitories of charitable and philanthropic organizations.

The Licensing Board does not distinguish between rooming houses, boarding houses, lodging houses, dormitories, except when the dormitory belongs to a charitable or philanthropic organization, and issues one type of license -- the lodging house license -- to each, which is valid for one year.

The procedure for obtaining this license is as follows:

Upon receipt of an application for a lodging house license, the

Board sends a separate form to the Police Department, the Building Department, and the Housing Inspection Department for an investigation and examination of the premises applied for and a character and fitness report of the applicant and/or his employees. This investigative process usually takes ten to fifteen days to complete. Upon the return of these reports from these city agencies, the application and reports are submitted to the Board which approves or disapproves the application on the basis of the accompanying reports.

With Board approval of the application, a fee notification is sent out. The fee schedule for a lodging house license is based upon the number of rooms.

1-9 rooms	$10.00
10-19 rooms	$20.00
20 rooms and over.....	$45.00

The Building Department (Egress Division), upon the request for a building inspection for a lodging house license from the Licensing Board examines the property in question to see that it conforms or is conformable to the provisions of Massachusetts General Law, Chapter 143, and Chapter 479 of the Acts of 1938, as amended (Building Code of the City of Boston). The Egress Division will apply the most stringent of the applicable laws and regulations when inspecting the premises of the applicant. If serious building deficiencies exist, the Egress Division will withhold building certification, which in effect, delays the granting of a license by the Licensing Board until the deficiencies are corrected.

The Egress Division requires 25 square feet of space per person.

The Housing Inspection Department, upon receipt of the request for inspection of a property, will inspect properties according to the Sanitary Code, Article II, Minimum Standards of Fitness for Human Habitation, and forward the results of this inspection to the LicensingBoard, usually within fifteen days.

The regulations under which the separate agencies, the Building Department, and the Housing Inspection Department operate sometimes differ. For example, the standards differ in the amount of square footage per person. The Egress Division requires 25 square feet of floor space per person, while the Housing Inspection Department requires at least 80 square feet of floor space in rooms used by a single person for sleeping purposes and requires at least 60 square feet of floor space per person in rooms used by more than one person for sleeping space. There appears to be an unwritten agreement between the two departments that there shall be at least 100 square feet of floor space per person within the building inspected for which a license is applied.

PART II

The capacity in Dan Finn's listing does not refer to the number of persons residing in a structure, but rather to the number of rooms contained in a property. This was determined by comparing the number of rooms in a structure, as listed on the license application, and the Building Department certifications with the Finn list.

All of the selected addresses on Finn's list are licensed as lodging houses by the Licensing Board and all, with the exception of 22 Commonwealth Avenue, are used as dormitories. Twenty-two Commonwealth Avenue presently contains 14 rooms and 3 apartments. In August, this property will be utilized as a dormitory. One hundred thirty-one Commonwealth Avenue is a kind of Panhellenic house in which representatives from eight Boston University sororities reside.

As far as can be determined, the gross density per building is well within legal limits in all of the selected properties on the Finn list.

In all of the selected properties on the Dan Finn list the number of persons residing in a particular building remained within the legal limits as set by either the Building Department and the Licensing Board.

The Tables which follow are the result of the survey undertaken of the properties in question, a. comparison with Dan Finn's list of January 7, 1966, and the Licensing Board applications and Building Department certifications.

STREET ADDRESS	OWNER AND/OR INSTITUTION	CAP. PER FINN (NO. OF ROOMS)	LIC. BD. CAP. (NO. OF ROOMS)	CHANGE	LIC. BD. CAP. PERSONS	BLDG. DEPT. CAP. PERSONS	CHANGE	SURVEY NO. OF PERSONS	GROSS FLOOR AREA	GROSS DENSITY[1]
133 Beacon	Bishop-Lee Inc. Bishop-Lee School	7	7	0	---	14	---	14	8125	580
206 Beacon	Riverview Inc. B.U.	11	11	0	40	44	4	36	6000	136
315-17 Beacon	Chamberlayne Jr. College	21	21	0	45	45	0	43	5600	124
418 Beacon	St. Philip Neri Catherine Campbell	19	19	0	35	35	0	40	8400	210
517-21 Beacon	Farrington Realty B.U.	45	45	0	89	81	8	85	15,600	183
16 Commonwealth	Chamberlayne Jr. College	14	16	2	35	35	0	35	3840	109
22 Commonwealth	E.L. Schwartz	17	17	0	45	35	10	17 + 3	5825	264
24-26 Commonwealth	Emerson College	31	33	2	90	52	38	70	14,545	161
28 Commonwealth	Chamberlayne	14	14	0	45	45	0	45	8000	177
59 Commonwealth	Chamberlayne	24	17	7	38	30	8	35	11,125	292
125-127 Commonwealth	Riverview Inc.	29	26	3	78	40 (file missing)	---	---	file missing	file missing
131 Commonwealth	B.U. 131 Commonwealth Ave. Inc.	11	11	0	25	25	0	25	10,025	405
181 Commonwealth	Riverview Inc.	15	17	2	48	48	0	48	9750	203

STREET ADDRESS	OWNER AND/OR INSTITUTION	CAP. PER FINN (NO. OF ROOMS)	LIC. BD. CAP. (NO. OF ROOMS)	CHANGE	LIC. BD. CAP. PERSONS	BLDG. DEPT. CAP. PERSONS	CHANGE	SURVEY NO. OF PERSONS	GROSS FLOOR AREA[1]	GROSS DEN-SITY[1]
202 Commonwealth	Back Bay Dorm Inc.	16	16	0	48	48	0	48	7824	163
204 Commonwealth	Back Bay Dorm Inc.	15	13	2	31	31	0	31	6448	208
255 Commonwealth	Alex Co. Inc. Chamberlain School of Retailing	118	18	100	49	48	1	48	6050	123
267-269 Commonwealth	Alex Co. Inc. Chamberlain School of Retailing	30	30	0	82	88	6	82	16,772	190
5 Fairfield	Chamberlayne	17	12	5	32	32	0	32	10,080	315
34 Gloucester	St. Philip Neri Robert J. McHugh	9	9	0	34	34	0	34	4140	121
18 Hereford	A & E Realty Co.	11	11	0	25	25	0	25	3840	153
138 Marlborough	Riverview Inc.	20	26	6	43	44	1	43	3200	72
163-165 Marlborough	Riverview Inc.	17	16	1	42	48	6	40	10,000	208
164 Marlborough	Riverview Inc.	12	12	0	31	40	9	31	5000	104
238 Marlborough	Chamberlayne	15	17	2	37	37	0	37	6000	162
425-427 Marlborough	Farrington Realty B.U.	26	26	0	50	50	0	46	10,896	217

1. In square feet.